

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

LORI COLTHARP,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO.
v.)	2:14cv233-MHT
)	(WO)
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

OPINION AND ORDER

In response to defendant's motion to dismiss, plaintiff repeatedly moved for leave to conduct jurisdictional discovery. The court denied those motions for discovery, but in so doing, explained that "[i]f it should appear that the dispositive motion cannot be resolved without discovery, the court will then allow discovery." Order (doc. no. 29). In its motion to dismiss, defendant asserts that it is entitled to the discretionary function exception under the Federal Torts Claims Act, 28 U.S.C. § 2680(a). Resolution of this motion requires the court to determine whether there was a mandatory policy or

regulation that eliminated the involved government actor's discretion. Defendant asserts that no such policy or regulation exists, and plaintiff has been unable to rebut that argument. However, "absent publicly available statutes or regulations, it is practically difficult for her to do so." *Willet v. U.S.*, No. 2:12-CV-296, 2013 WL 3280323 *4 (M.D. Ala. June 27, 2013) (Watkins, J.). It is now apparent that limited jurisdictional discovery is warranted to allow the plaintiff an opportunity to seek the evidence needed to contest defendant's assertion.

Accordingly, upon further consideration, it is ORDERED that:

(1) The court's prior order denying jurisdictional discovery (doc. no. 29) is vacated.

(2) The motions for leave to conduct limited jurisdictional discovery (doc. nos. 16, 20, and 25) are granted.

(3) Plaintiff shall have until February 20, 2018,
to conduct jurisdictional discovery.

DONE, this the 22nd day of December, 2017.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE